



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: January 7, 2009  
Comment Deadline: February 9, 2009  
Corps Action ID #: SAW-2007-03577

All interested parties are hereby advised that the Wilmington District, Corps of Engineers (Corps) has received an application for work within jurisdictional waters of the United States. Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at [www.saw.usace.army.mil/wetlands](http://www.saw.usace.army.mil/wetlands).

**Applicant:** Oak Island Property Holdings, LLC  
C/o Ronnie McNeil  
2443 South 41<sup>st</sup> Street  
Wilmington, North Carolina 28409

## Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

## Location

The project site is located along the Atlantic Intracoastal Waterway (AIWW) and immediately to the east of NC 133 Bridge off Old Bridge Road SE, Town of Oak Island, and Brunswick County. Latitude 33° 55' 19.22387" and Longitude 78° 04' 09.83335.

## Existing Site Conditions

According to information provided by the applicant, the 31 acre property consists of four tracts within the planning jurisdictions of both the Town of Oak Island and Brunswick County. The upland development of the condo project is located primarily within the County's planning jurisdiction, and is comprised of approximately 20.4 acres. The marina development is located within the Town of Oak Island's jurisdiction and includes approximately 10.7 acres. An abandoned building with accessory buildings, which is formerly served as a seafood market, is situated on the high ground portion of the property to the southeast.

## Site History

The following information was provided by the applicant. Several permits have been issued on this property. State permit #136-86 was issued on July 11, 1986 for the construction of a 140 unit condominium complex, 58 slip marina, and bulkhead along the eastern boundary of the property. This permit also authorized the excavation of a 360 ft by 60 ft basin area waterward of the bulkhead with a final dredged depth of -5.0 NLW. It appears only the bulkhead was constructed under this permit. State permit #40-96 was subsequently issued for replacement of the bulkhead and dock and expansion of the marina to include 18 boat slips with 320 ft of side-to dockage. The condominium complex was not constructed by the permittees.

## Applicant's Stated Purpose

The applicant's stated purpose of the project is to construct a condominium residence, upland marina, dry stack facility, transient dock, clubhouse, pool, recreation areas, and parking.

## Project Description

The applicant is proposing to construct two condominium towers with a total of 222 units, two 12-unit condominiums and a 10-unit condominium, a clubhouse, pool and recreational area, upland marina basin, dry stack storage, and a transient dock along the AIWW with fueling and pump out facilities. According to Oak Island Property Holdings, LLC, c/o Ronald McNeil the applicant, an Erosion and Sedimentation Control plan (Project ID: Bruns-2008-158) was approved on October 18, 2007 and a state stormwater plan (Permit No. SW8 070685) was approved by the N.C. Division of Water Quality on October 16, 2007. The Section 404 wetland delineation was approved by the U.S. Army Corps of Engineers on February 5, 2008.

A 55-slip upland basin marina is proposed along floating docks and finger piers: 6, 35-foot slips; 31, 40-foot slips; 3, 50, foot slips; and 9, 60-foot slips. The 35-foot slips will be equipped with boat lifts. Approximately, 66,850 cubic yards will be dredged for the upland basin to a final depth of -6.0 ft NLW and disposed onto a proposed upland diked de-watering area. In addition to the 55 marina slips, the applicant proposes to construct a dry stack facility that will store an additional 44 boats. The total number boats that will be accommodated by the marina and dry stack facility are 99.

The project also proposes to maintenance dredge the existing access channel to the upland basin to a depth of -6.5 NLW. Approximately 1,863 cubic yards of material will be hydraulically dredged and pumped to the upland disposal area located onsite.

A floating dock is proposed parallel to the shoreline along the AIWW measuring 336.6 feet long and 11'8" in wide to would provide 12 transient slips of side-to docking. The water depths under the proposed dock will be approximately -4.0 NLW. Pump out and fuel facilities will be available on this dock. The application states that a full time Dock

Master and associated trained staff will manage the fueling and pump out facility and that a Marina Operations Manual and Emergency Spill Response Plan will be posted on the site. According to the application, state-of-the-art fuel system operation and safe guards will be implemented since the proposed fueling facility will be located over a state designated primary nursery area.

### **Anticipated Impacts**

The 31 acres property site contains 4.67 acres of Section 404 wetlands and 1.12 acres of coastal wetlands. The proposed project will fill approximately 0.1 acre of Section 404 wetlands. The applicant has proposed offset these wetland losses by purchasing wetland mitigation at a 2:1 ratio from the North Carolina Ecosystem Enhancement Program plus place a deed restriction on the majority of the remaining Section 404 wetlands.

### **Other Required Authorizations**

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ for certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260, Attention: Ms Cyndi Karoly by February 2, 2009

The applicant has not provided to the Corps, a certification statement that his/her proposed activity complies with and will be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2(b)(2), the Corps can not issue a permit, unless the proposed project meets the terms and conditions for a Corps Regional General Permit or Nationwide Permit, for the proposed work until the applicant submits such a certification to the Corps and the North Carolina Division of Coastal Management (NCDCM), and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification.

### **Essential Fish Habitat**

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that the proposed project will not adversely impact EFH or associated

fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

### **Cultural Resources**

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

### **Endangered Species**

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps has determined there may be species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. A final determination on the effects of the proposed project will be made upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

### **Evaluation**

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

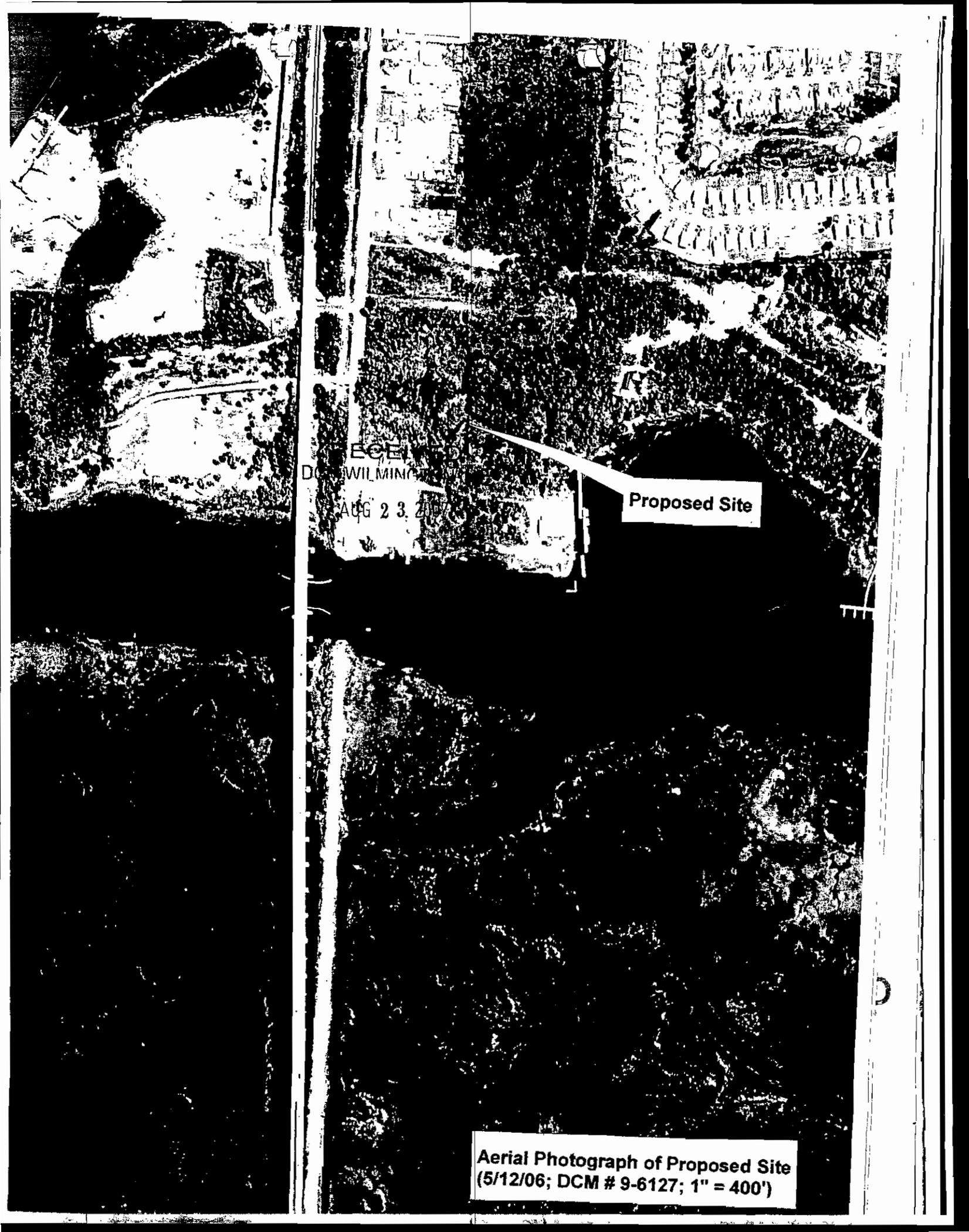
### **Commenting Information**

The Corps is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the

Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, February 9, 2009. Comments should be submitted to Dave Timpy, Project Manager for this project.



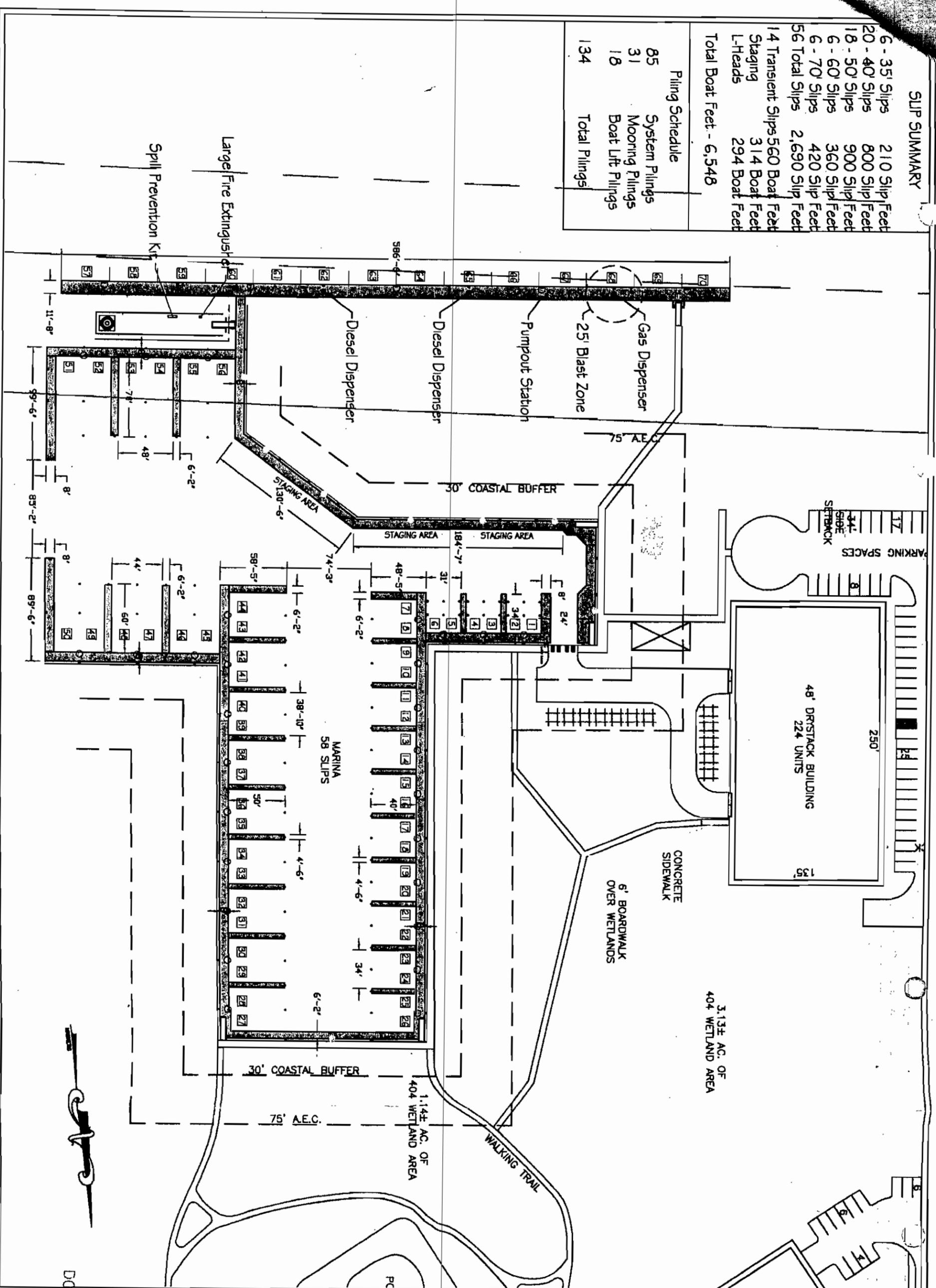
ECEI  
DCM # 9-6127  
AUG 23, 2007

Proposed Site

Aerial Photograph of Proposed Site  
(5/12/06; DCM # 9-6127; 1" = 400')

**SLIP SUMMARY**

|                                |                 |
|--------------------------------|-----------------|
| 6 - 35' Slips                  | 210 Slip Feet   |
| 20 - 40' Slips                 | 800 Slip Feet   |
| 18 - 50' Slips                 | 900 Slip Feet   |
| 6 - 60' Slips                  | 360 Slip Feet   |
| 6 - 70' Slips                  | 420 Slip Feet   |
| 56 Total Slips                 | 2,690 Slip Feet |
| 14 Transient Slips             | 560 Boat Feet   |
| Staging                        | 314 Boat Feet   |
| L-Heads                        | 294 Boat Feet   |
| <b>Total Boat Feet - 6,548</b> |                 |
| <b>Piling Schedule</b>         |                 |
| 85 System Piling               |                 |
| 31 Mooring Piling              |                 |
| 18 Boat Lift Piling            |                 |
| 134 Total Piling               |                 |



**SOUND**  
MARINE  
EXCEPTIONAL SITE DESIGN  
1515 W. 10th St. - Suite 101 - Seattle, WA 98104  
Tel: 206.461.1234

**OAK ISLAND RESORT**  
**PROPOSED DOCK LAYOUT**

Figure 2

This drawing contains proprietary information which is the property of SOUND MARINE INC. and shall not be copied, reproduced, or made available to third parties without prior written permission.

|             |                                            |
|-------------|--------------------------------------------|
| Date:       | 6/9/07                                     |
| Reference:  | OakIslandPresentat                         |
| Scale:      | 1:80                                       |
| Drawn By:   | T.S. Garrett                               |
| Checked By: | RECEIVED<br>PLS 5/10/08<br>JWH/WML/STAN/PC |
| Sheet:      | DC 2 of 2<br>JCT 2 6 2007                  |